UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re MULTIPLAN HEALTH INSURANCE PROVIDER LITIGATION	Case No. 1:24-cv-06795
	MDL No. 3121
This Document Relates To: ALL ACTIONS	Hon. Matthew F. Kennelly

BRIEF OF THE AMERICAN HOSPITAL ASSOCIATION AND THE FEDERATION OF AMERICAN HOSPITALS AS AMICI CURIAE IN RESPONSE TO DEFENDANTS' JOINT MOTIONS TO DISMISS

INTEREST OF AMICI CURIAE

The American Hospital Association (AHA) represents nearly 5,000 hospitals, health care systems, and other health care organizations. Its members are committed to improving the health of the communities that they serve, and to helping ensure that care is available to and affordable for all Americans. The AHA educates its members on health care issues and advocates on their behalf, so that the perspectives of hospitals and health systems, along with the patients they serve, are considered in formulating health policy. One way in which the AHA promotes its members' interests is by participating as amicus curiae in cases with important and far-ranging consequences.

The Federation of American Hospitals (FAH) represents more than 1,000 tax-paying community hospitals and health systems throughout the United States. Its members include teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals. They provide patients and communities in 46 states, the District of Columbia, and the Commonwealth of Puerto Rico with access to high-quality, affordable care, including inpatient, ambulatory, post-acute, emergency, children's, and cancer services. Through advocacy and policy analysis, the FAH promotes market-based innovation, investments in the health care workforce, and the protection of access to full-service hospitals.

The AHA's and FAH's member hospitals have a significant interest in this case. Commercial insurance reimbursements comprise the majority of many hospitals' revenue. Moreover, because government programs like Medicare do not cover the costs of providing care, commercial reimbursements can be the difference between losing money, breaking even, or earning a sustainable margin.[1] The AHA's and FAH's member hospitals thus depend on

[1] *See* Am. Hosp. Ass'n, *The Financial Stability of America's Hospitals and Health Systems Is at Risk as the Costs of Caring Continue to Rise*, at 1 (Apr. 2023) (hereinafter "2023 Cost of

competition among commercial payors to ensure that commercial reimbursement rates are sufficient to cover hospitals' costs and preserve access to care throughout the United States.

INTRODUCTION

This lawsuit comes at a crucial time for the health care sector. Since the onset of COVID-19, the prices for key inputs—including labor, prescription drugs, and medical equipment—have grown dramatically. America's hospitals and health systems have borne the lion's share of these increased costs. Government reimbursements were inadequate before the pandemic; they have since fallen even further behind. In December 2024, for example, the Medicare Payment Advisory Commission noted in a preliminary presentation to Commissioners that hospital Medicare margins were at an all-time low of *negative 12.6%, and were projected to remain at that level in 2025*.[2] These worrisome statistics do not include Medicaid shortfalls, which compound the problem even further. According to AHA analysis, the difference between Medicaid payments and costs in 2023 was *$27.5 billion*.[3] And to make matters worse, reimbursements from commercial payors have failed to keep pace with hospitals' increased costs. The result is dire: more than a third of all U.S.

Caring Report"), *available at* https://www.aha.org/system/files/media/file/2023/04/Cost-of-Caring-2023-The-Financial-Stability-of-Americas-Hospitals-and-Health-Systems-Is-at-Risk.pdf.

[2] Alison Binkowski et al., Medicare Payment Advisory Commission, *Assessing payment adequacy and updating payments: Hospital inpatient and outpatient services; and mandated report on rural emergency hospitals*, at 13, 15 (Dec. 12, 2024), *available at* https://www.medpac.gov/wp-content/uploads/2023/10/Tab-D-Hospital-payment-adequacy-and-REH-mandate-December-2024_SEC-1.pdf. For this reason, the Commission recommended in January 2025 that Congress update Medicare payment rates for hospital inpatient and outpatient services by the current law amount plus 1% for 2026 and reiterated its recommendation to distribute an additional $4 billion to safety-net hospitals by transitioning to a Medicare safety-net index policy. *See* Dave Muoio, *MedPAC Votes to Recommend Hospital Pay Increases for 2026*, Fierce Healthcare (Jan. 17, 2025), *available at* https://www.fiercehealthcare.com/providers/medpac-votes-recommend-hospital-pay-increases-2026.

[3] Am. Hosp. Ass'n, *Fact Sheet: Medicaid Hospital Payment Basics* (Feb. 2025), *available at* https://www.aha.org/fact-sheets/2025-02-07-fact-sheet-medicaid-hospital-payment-basics.

hospitals have negative operating margins, bond defaults are up, and hundreds of rural hospitals are on the brink of collapse.

The situation is much different for the commercial insurance companies that use MultiPlan's repricing tool. Commercial payors like UnitedHealthcare are some of the largest companies in the world. They generate hundreds of billions of dollars in revenue each year and earn sizeable profits. In 2020, while hospitals were devastated by the COVID-19 outbreak, insurers banked record profits. Several years later, this economic divergence between providers and payors remains consistent. Hospitals and health systems continue to struggle financially. Insurers do not.

Against this backdrop, it is imperative that courts hold commercial insurers to the same standards as everyone else. The AHA and FAH respectfully submit this *amicus* brief to offer a broader perspective on what is really at stake here. If, as Plaintiffs allege, MultiPlan has facilitated collusion among commercial insurers throughout the country, this Court's intervention will help preserve the viability of many struggling hospitals that cannot survive without competitive reimbursements.

ARGUMENT

I. America's hospitals and health systems face an unprecedented economic crisis.

America's hospitals and health systems are in trouble. After suffering repeated, unprecedented challenges starting in 2020, many hospitals have struggled to break even due to the combination of (i) continually rising costs, and (ii) insufficient reimbursements from government payors. Now, more than ever, hospitals need competition between commercial payors to generate enough revenue to cover their costs and remain viable for the long term.

Though many hospitals have historically struggled to break even, the COVID-19 pandemic created new and lingering financial challenges for hospitals and health systems.[4]

Even though the worst of COVID-19 is now behind us, hospitals still feel the economic effects of this once-in-a-century pandemic. Expenses have continued to rise across the board, with substantial increases in the cost of labor, medication, medical supplies and equipment, and purchased services. These cost increases have dwarfed the relatively modest increases in hospital prices and government reimbursements during this same time period.

With respect to labor costs, the COVID-19 pandemic led to critical workforce shortages in 2020 and 2021, requiring hospitals to incur greater costs to hire and retain workers.[5] Yet in 2022, things somehow got worse—just as emergency funding from Congress began to dry up. Due to a combination of sustained COVID-19 surges, an outbreak of respiratory syncytial virus (RSV), and deferred care from the early days of the pandemic, demand for hospital care grew dramatically. To meet this demand, hospitals were forced to rely on health care staffing agencies to fill necessary gaps, including for bedside nursing.[6] Staffing agencies capitalized on the situation and increased their rates to record levels.[7] As a result, hospitals' total labor expense in 2022 was 21% higher than in 2019, driven in large part by a staggering *258% increase* in contract labor expense.[8]

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[4] Robert King, *Hospitals close out 2020 with declining margins and higher expenses due to COVID-19*, Fierce Healthcare (Jan. 26, 2021), *available at* https://www.fiercehealthcare.com/hospitals/kaufman-hall-hospitals-close-out-2020-declining-margins-and-higher-expenses-due-to-covid.

[5] *See* 2023 Cost of Caring Report.

[6] *Id.* at 2.

[7] *Id.* at 2-3.

[8] Syntellis & Am. Hosp. Ass'n, *Hospital Vitals: Financial and Operational Trends*, at 2 (Feb. 2023), *available at* https://www.syntellis.com/sites/default/files/2023-03/AHA%20Q2_Feb%202023.pdf.

Although spending on contract workers has tempered since its peak, hospitals still spent approximately $51.1 billion on contract staff in 2023.[9]

Drug expenses also increased dramatically. As hospitals and health systems struggled to overcome pandemic surges and workforce shortages, the prices they paid for numerous medications went up.[10] According to HHS, the prices of 1,216 drugs—including those used to treat chronic conditions like cancer and rheumatoid arthritis—increased by an average of 31.6% between 2021 and 2022, roughly *four times* the rate of inflation during that period.[11] Overall, average drug expenses per patient increased nearly 20% between 2019 and 2022.[12] Further, drug companies have continued to introduce new drugs at record prices, with the median list price for a new drug in 2023 standing at $300,000, an increase of 35% from 2022.[13]

As labor and drug costs rose, hospitals and health systems also were forced to pay materially higher prices for medical supplies and equipment. Supply chain disruptions led to higher manufacturing, packaging, and shipping costs, which in turn led to higher prices for hospitals.[14] Between 2019 and 2022, laboratory expenses per patient increased by 27.1%, and expenses for emergency services—including ventilators, respirators, and other life-saving equipment—increased by 31.9%.[15] At the same time, increases in patient acuity resulted in longer

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[9] Am. Hosp. Ass'n, *America's Hospitals and Health Systems Continue to Face Escalating Operational Costs and Economic Pressures as They Care for Patients and Communities*, at 7 (April 2024) (hereinafter "2024 Cost of Caring Report") *available at* https://www.aha.org/system/files/media/file/2024/05/Americas-Hospitals-and-Health-Systems-Continue-to-Face-Escalating-Operational-Costs-and-Economic-Pressures.pdf.

[10] 2023 Cost of Caring Report at 3-4.

[11] *Id.* at 4.

[12] *Id.*

[13] 2024 Cost of Caring Report at 5-6.

[14] 2023 Cost of Caring Report at 5.

[15] *Id.* at 5-6.

hospital stays and more intensive care, leading to even higher medical supply and equipment costs. Overall supply expenses per patient increased 18.5% between 2019 and 2022, nearly matching the increases in labor and drug costs.[16] Hospitals' medical supply expenses continued to increase in 2023, collectively rising $6.6 billion over 2022, due in part to the frequent need to purchase new supplies and equipment to meet clinical care standards and deliver quality care.[17]

As hospitals and health systems faced significant price increases at every turn, their revenues did not keep pace. Even before the pandemic, reimbursements from government payors were insufficient to cover costs.[18] A 2016 analysis by the Congressional Budget Office concluded that, due in part to projected cuts to Medicare reimbursements, as many as 40-60% of hospitals would have negative profit margins by 2025.[19] But during the pandemic, government reimbursements fell even further behind. In 2020, Medicare paid only 84 cents for every dollar hospitals spent caring for Medicare patients, imposing tens of billions of dollars in losses on

[16] *Id.* at 5.

[17] 2024 Cost of Caring Report at 6-7.

[18] Medicare Payment Advisory Commission, *Report to the Congress: Medicare Payment Policy*, at xv (Mar. 15, 2019) (finding that hospitals' aggregate Medicare margin in 2017 was negative 9.9% and projecting a decline to negative 11% by 2019), *available at* https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/mar19_medpac_entirereport_sec_rev.pdf.

[19] Congressional Budget Office, Working Paper Series, *Projecting Hospitals' Profit Margins Under Several Illustrative Scenarios*, at 2 (Sept. 2016), *available at* https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/workingpaper/51919-Hospital-Margins_WP.pdf.

hospitals nationwide.[20] By 2022, that fell to just 82 cents on the dollar where it has remained.[21] All in all, while total hospital expenses increased by 17.5% between 2019 and 2022, Medicare reimbursements for inpatient care increased by only 7.5%.[22] When including Medicaid payment shortfalls, the impact is even greater. "[C]umulative underpayments in the second half of the last decade totaled more than half a trillion dollars—a nearly 40% increase compared to the first half even after adjusting for inflation."[23] This was also true across payer types. In 2022, for example, growth in general inflation (8%) was nearly triple the growth in hospital prices as measured by the Bureau of Labor Statistics (2.8%).[24]

Unsurprisingly, rapid increases in costs coupled with modest increases in revenue have taken a severe toll on hospitals' financial performance. Forty rural hospitals have closed since 2020 alone.[25] Over half of U.S. hospitals ended 2022 operating at a loss.[26] These financial

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[20] Am. Hosp. Ass'n, *Fact Sheet: Underpayment by Medicare and Medicaid* (Feb. 2022), *available at* https://www.aha.org/fact-sheets/2020-01-07-fact-sheet-underpayment-medicare-and-medicaid. In 2020 alone, hospitals lost over *$100 billion* caring for Medicare and Medicaid patients combined. *Id.*

[21] Am. Hosp. Ass'n, *AHA infographic: Medicare underpayments to hospitals nearly $100 billion in 2022* (Jan. 10, 2024), *available at* https://www.aha.org/news/headline/2024-01-10-aha-infographic-medicare-underpayments-hospitals-nearly-100-billion-2022.

[22] 2023 Cost of Caring Report at 1.

[23] 2024 Cost of Caring Report at 2.

[24] 2023 Cost of Caring Report at 2; Micah Hartman et al., *National Health Care Spending in 2022: Growth Similar to Prepandemic Rates*, Health Affairs, at 6-7 (Jan. 2024) (citing BLS statistics for 2.8% growth in hospital producer pricing index), *available at* https://www.healthaffairs.org/doi/epdf/10.1377/hlthaff.2023.01360. BLS statistics account for both government and commercial reimbursements. U.S. Bureau of Labor Statistics Industry Factsheet, *Producer Price Indexes*, *available at* https://www.bls.gov/ppi/factsheets/producer-price-index-healthcare-factsheet.htm (last visited Feb. 25, 2025).

[25] UNC, The Cecil G. Sheps Center for Health Services Research, *Rural Hospital Closures*, *available at* https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures.

[26] 2023 Cost of Caring Report at 2.

challenges continued into 2023: according to one study, the first quarter of 2023 had the highest number of bond defaults by hospitals in over a decade;[27] according to another analysis, the median operating margin was negative in early 2023 and was barely breakeven through the end of October.[28] An AHA analysis found that in 2023, hospitals and health systems once again contended with high operating expenses. Hospitals' drug costs were $115 billion in 2023; supply costs were $146.9 billion; and labor costs alone were $839 billion.[29]

Another area of significant cost growth has been in the area of administrative expenses associated with inappropriate practices by certain commercial health insurers. A 2021 study by McKinsey estimated that hospitals spent $10 billion annually on dealing with insurer prior authorizations.[30] By 2023, a Premier study found that hospitals spent just under $20 billion annually in appealing denials, more than half of which should have been paid out at the time of submission.[31] A recent AHA report found that rural hospitals are especially vulnerable to these administrative burdens. This is particularly true with Medicare Advantage plans, which have seen massive enrollment growth in rural areas in recent years. The report found that delays, denials and

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[27] *Id.*

[28] Kaufman Hall, *National Hospital Flash Report*, at 7 (Nov. 2023) (showing negative median operating margins in January and February 2023 and a median operating margin just above 1% for October), *available at* https://www.kaufmanhall.com/insights/research-report/national-hospital-flash-report-november-2023.

[29] 2024 Cost of Caring Report at 5-7.

[30] Nikhil R. Sahni et al., *Administrative simplification: How to save a quarter-trillion dollars in US healthcare*, at 35 (Oct. 2021), *available at* https://www.mckinsey.com/~/media/mckinsey/industries/healthcare%20systems%20and%20services/our%20insights/administrative%20simplification%20how%20to%20save%20a%20quarter%20trillion%20dollars%20in%20us%20healthcare/administrative-simplification-how-to-save-a-quarter-trillion-dollars-in-us-healthcare.pdf.

[31] Premier, *Trend Alert: Private Payers Retain Profits by Refusing or Delaying Legitimate Medical Claims* (Mar. 21, 2024), *available at* https://premierinc.com/newsroom/blog/trend-alert-private-payers-retain-profits-by-refusing-or-delaying-legitimate-medical-claims.

excessive prior authorization from certain MA plans can hinder timely care, with 81% of rural clinicians reporting quality reductions due to insurer requirements.[32] The report further found that four in five rural clinicians reported higher administrative tasks in the last five years, with 86% seeing negative impacts to patient outcomes.[33]

Although the onslaught of new financial challenges has slowed, and some hospitals' finances have finally begun to stabilize, this is more a recognition of the "new normal" than a real improvement.[34] A Moody's report from October noted that hospitals have had to find "ways to live with the challenges that they have."[35] While average margins stabilized to some extent in 2024, many hospitals and health systems throughout the country remain in financial distress.[36]

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[32] Am. Hosp. Ass'n, *The Growing Impact of Medicare Advantage on Rural Hospitals Across America*, at 2 (Feb. 2025), *available at* https://www.aha.org/system/files/media/file/2025/02/growing-impact-of-medicare-advantage-on-rural-hospitals.pdf.

[33] *Id.*

[34] Laura Dyrda, *Hospitals buck 'deteriorating' outlook: Fitch's 2025 expectations* (Dec. 10, 2024), *available at* https://www.beckershospitalreview.com/finance/hospitals-buck-deteriorating-outlook-fitchs-2025-expectations.html.

[35] Caroline Hudson, *Hospital margins may see modest improvement in 2025: Moody's* (Oct. 18, 2024), *available at* https://www.modernhealthcare.com/finance/moodys-hospital-margins-staffing-2025.

[36] Press Release, Strata, *U.S. Hospitals See Financial Performance Stabilize Throughout 2024, According to New Strata Data* (Jan. 28, 2025) (noting operating margins for the nation's hospitals "largely stabilized in 2024 after years of volatility," with the median year-to-date operating margin for hospitals nationwide remaining above 4.5% throughout the year), *available at* https://www.stratadecision.com/press-release/us-hospitals-see-financial-performance-stabilize-throughout-2024-according-new-strata; Kaufman Hall, *Hospital and Health System M&A in Review: Despite Industry Stabilization, Numbers Reveal Ongoing Distress in 2024* (Jan. 9, 2025) (noting that among hospital and health system mergers and acquisitions activity in 2024, the percentage of announced transactions involving a financially distressed party reached a record high of 30.6%, and 2024 saw "a significant decline in the percentage of announced transactions in which the smaller party had a credit rating of A- or above"), *available at* https://www.kaufmanhall.com/insights/research-report/hospital-and-health-system-ma-review-despite-industry-stabilization#4.

II. Commercial health insurers continue to generate sizeable profits.

As America's hospitals struggle to break even, the large commercial health insurers that use MultiPlan are more profitable than ever. COVID-19, it turns out, was a financial boon to the commercial health insurance industry. The deferred health care that decimated hospital financial health had precisely the opposite effect on commercial payors. Because many patients cancelled or delayed non-emergency medical procedures, the pandemic resulted in "one of the lowest medical loss ratios (83.5%) in decades."[37] These record-low medical loss ratios led to "outsized underwriting profits (more than US$40 billion) in 2020."[38]

Although medical loss ratios increased in more recent years, underwriting margins remained positive and generally consistent with pre-COVID levels.[39] The result is that large commercial insurers continue to generate sizeable profits even as cost increases plague hospitals and health systems. United Healthcare, for example, earned over $25 billion in additional revenue and increased its operating margin in 2022.[40] Then, to start 2023, it increased its first quarter revenues by 13% year-over-year, contributing to the additional $11.8 billion its parent company, UnitedHealth Group (UHG), earned *in that single quarter* compared to the same period in 2022.[41]

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[37] Andy Davis et al., *In a shifting market, it is "advantage" Medicare for health plans*, Deloitte Insights (July 25, 2023), *available at* https://www2.deloitte.com/us/en/insights/industry/health-care/health-insurance-trends.html. An insurer's medical loss ratio is its share of total premiums spent on medical claims.

[38] *Id.*

[39] *Id.* (noting that average underwriting margins from 2020-2022 were 2.8%, compared to 3.2% from 2017-2019).

[40] Press Release, UnitedHealth Group, *UnitedHealth Group Reports 2022 Results*, at 3 (Jan. 13, 2023), *available at* https://www.unitedhealthgroup.com/content/dam/UHG/PDF/investors/2022/UNH-Q4-2022-Release.pdf.

[41] Press Release, UnitedHealth Group, *UnitedHealth Group Reports First Quarter 2023 Results*, at 2-3 (Apr. 14, 2023), *available at* https://www.unitedhealthgroup.com/content/dam/UHG/PDF/investors/2023/UNH-Q1-2023-Release.pdf.

United Healthcare continued to earn sizeable profits through the end of 2024.[42] UHG's share price more than doubled between the beginning of the pandemic and the date of filing of Defendants' motions to dismiss in this action.[43] The share price for Elevance, the nation's largest Blue Cross/Blue Shield licensee, increased approximately 72% during the same period.[44]

That commercial payors are profitable does not mean they are colluding, of course. But the Court should be skeptical of any argument that MultiPlan allows payors to combat allegedly high prices. *See, e.g.*, Mem. Supp. Defs.' Joint Mot. Dismiss Consol. Class Action Compl. [ECF No. 283] at 20 ("Plaintiffs seek the ability to obtain an excessive or supracompetitive price for services billed on an [out-of-network] basis—one that dwarfs (by a factor of up to 100 times) the recovery they obtain for the same services when billed on an in-network basis or through

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[42] Press Release, UnitedHealth Group, *UnitedHealth Group Reports 2024 Results*, at 2-3 (Jan. 16, 2025) (noting United Healthcare earned an additional $16.8 billion in 2024, contributing to UHG's 2024 revenue growth of $28.7 billion year-over-year), *available at* https://www.unitedhealthgroup.com/content/dam/UHG/PDF/investors/2024/2025-16-01-uhg-reports-fourth-quarter-results.pdf.

[43] *UnitedHealth Group Incorporated (UNH),* Yahoo!Finance, https://finance.yahoo.com/quote/UNH/history.

[44] *Elevance Health, Inc. (ELV)*, Yahoo!Finance, https://finance.yahoo.com/quote/ELV/history. Formerly known as Anthem, Elevance's net income increased from nearly $4.6 billion in 2020 to nearly $6.0 billion in 2024, while its stock price has grown by more than $160. *See* Anthem Annual Report 2021, Financials (last visited Feb. 25, 2025), *available at* https://www.elevancehealth.com/annual-report/2021/financials.html (noting 2020 shareholders' net income); Earnings Release, Elevance Health, Elevance Health Reports Fourth Quarter and Full Year 2024 Results; Sets Full Year 2025 Outlook (Jan. 23, 2025), at 8 (noting 2024 shareholders' net income), *available at* https://www.elevancehealth.com/content/dam/elevance-health/documents/earnings/4Q2024_ELV_Earnings_Release.pdf; *Elevance Health, Inc. (ELV)*, Yahoo!Finance, https://finance.yahoo.com/quote/ELV/history. Some other commercial payors with significant increases in share price since March 2020 include Cigna Group (86% increase from March 16, 2020, to the date of filing of Defendants' motions to dismiss in this action) and Molina Healthcare (132% increase during same period). *See The Cigna Group (CI)*, Yahoo!Finance, https://finance.yahoo.com/quote/CI/history (Cigna); *Molina Healthcare, Inc. (MOH)*, Yahoo!Finance, https://finance.yahoo.com/quote/MOH/history (Molina).

Medicare."). Such rhetoric is not just a distraction from the allegations in and merits of this case—it is out of step with the economic reality of the health care industry.

III. Rural hospitals are uniquely at risk.

Some of the Plaintiffs in this MDL are large health systems with many facilities. They are in the minority of hospitals that have the wherewithal to pursue litigation of this nature. Most hospitals and health systems do not. Because this lawsuit addresses alleged conduct that harms (or could harm) many U.S. hospitals, regardless of size or ownership structure, it is important that the Court evaluate Plaintiffs' allegations with an understanding of the bigger picture.

As discussed above, the past few years have been a challenging period for the health care sector. After the devastating losses of 2020 and three years of cost inflation, the median operating margin across all U.S. hospitals in 2023 barely hovered above breakeven.[45] This means *nearly half of all hospitals* were still failing to cover their costs of treating patients at the time the first of these lawsuits was filed.

The situation is even more dire in rural communities. A 2024 study found that 429 rural hospitals are at high financial risk due to negative margins and poor cash positions.[46] More recently, a February 2025 analysis found that nearly half of all rural hospitals have a negative

[45] Kaufman Hall, *National Hospital Flash Report*, at 7 (Jan. 2024), *available at* https://www.kaufmanhall.com/sites/default/files/2024-01/KH_NHFR-2024-01-V2.pdf; Lukas K. Gaffney & Kenneth A. Michelson, *Analysis of Hospital Operation Margins and Provision of Safety Net Services*, JAMA Network Open (Apr. 18, 2023) (defining hospital operating margin as "net income from patient care (operating revenue minus operating expenses) divided by revenue from patient care"), *available at* https://pmc.ncbi.nlm.nih.gov/articles/PMC10114034.

[46] Al Dobson et. al, *The Potential for Hospital System Integration to Improve the Financial Outlook of Rural Hospitals in the United States,* Dobson DaVanzo Health Econ. Consulting, at 2, 10 (Nov. 22, 2024), *available at* https://strengthenhealthcare.org/new-report-finds-integration-with-a-hospital-system-can-protect-rural-hospitals-patient-access-to-care.

operating margin, with the national median operating margin for rural hospitals standing at 1.0%.[47] This study identified 432 rural hospitals that are vulnerable to closure, with at least one vulnerable hospital in 38 of the 48 states with rural hospitals.[48] Further, the study noted that government policies, such as sequestration and bad debt reimbursement, continue to impose financial pressures on rural hospital revenues.[49] Changes to the payer mix in rural communities—where 39% of Medicare-eligible individuals are enrolled in Medicare Advantage plans—can uniquely challenge rural hospitals and "have a disproportionate impact in rural settings where Medicare insurance is typically the largest healthcare payer."[50]

America's rural and community hospitals need competitive reimbursements from commercial payors to fulfill their core mission of providing care for their patients and communities. It is a matter of survival. Accordingly, the Court should not be distracted by Defendants' efforts to disparage hospital pricing. Instead, the Court should evaluate this case on the merits, with an understanding that the resolution of Plaintiffs' claims will have a profound impact on hospitals and health systems throughout the country.

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[47] Chartis, *2025 Rural Health State of the State*, at 2, *available at* https://www.chartis.com/sites/default/files/documents/CCRH%20WP%20-%202025%20Rural%20health%20state%20of%20the%20state_021125.pdf.

[48] *Id.* at 4.

[49] *Id.* at 2.

[50] *Id.* at 3.

CONCLUSION

Competitive reimbursement rates are critical to many hospitals and health systems. At this stage in the case, the AHA and the FAH need not take a position on the merits of the underlying claims. But if, as Plaintiffs allege, commercial payors are colluding to fix out-of-network reimbursements, the Court should put an end to such conduct. In so doing, the Court will help alleviate the tremendous financial strain on America's hospitals and health systems, while preserving patient access to care in hundreds of communities across the United States.

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Respectfully submitted,

/s Ryan Schmidt

Ryan Schmidt (6333312)
110 North Wacker Drive
Suite 4800
Chicago, IL 60606
Office +1.312.269.4192
rschmidt@jonesday.com

Counsel for Amici Curiae
The American Hospital Association and
The Federation of American Hospitals